

HELEN E. CHRISTIAN (2247)
GUSTIN & CHRISTIAN, P.C.
Attorney for Petitioner
370 East South Temple, Suite 400
Salt Lake City, Utah 84111
Telephone: (801) 521-6383
Facsimile: (801) 355-2513

IN THE THIRD JUDICIAL DISTRICT COURT OF SALT LAKE COUNTY

STATE OF UTAH

EDURNE SWARTLING,

Petitioner,

v.

ERIC K. SWARTLING,

Respondent.

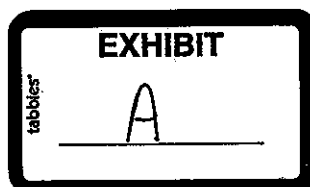
ORDER

Civil No. 014906771DA

Judge: Tyrone E. Medley

Comm.: Thomas N. Arnett, Jr.

This matter came before the Court for an evidentiary trial on three motions for contempt certified by the Domestic Relations Commissioner, on the 27th of July and on the 24th of August, 2004, before the Honorable Tyrone E. Medley, District Court Judge, presiding. Petitioner, EDU SWARTLING, was present in person and represented by her counsel of record, Helen E. Christian. Respondent, ERIC K. SWARTLING, was present and represented by his counsel, Kathleen McConkie. The parties were sworn and testified before the Court, and documentary evidence was introduced and admitted into evidence. Witnesses were sworn and testified on



Petitioner's behalf. The Court, having heard all of the evidence, having reviewed the testimony of the parties and the witnesses, and the cases submitted by Respondent's counsel with respect to one issue, and having taken the matter under advisement, and issued its ruling by telephonic conference with the parties' counsel on August 25, 2004, and being otherwise fully advised in the premises, and having entered its Findings of Fact and Conclusions of Law, now makes and enters the following Order:

IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

Respondent's Contempt

1. The Court, having found the Respondent, ERIC SWARTLING, in contempt for his failure to refinance the first and second mortgages as required by the Decree, orders him to serve thirty (30) days in the Salt Lake County Jail, which sentence shall be stayed for a period of ninety (90) days from the date of entry of this Order to give Respondent the option to purge himself of his contempt by relieving the Petitioner from any liability whatsoever, including judgment and attorney's fees, as a result of the action filed by America First Credit Union, Case No. 040902404, assigned to Judge Stephen L. Henriod.

2. If Respondent fails to exercise the option to purge his contempt by releasing Petitioner from liability on the loan and paying her attorney's fees incurred in this action within ninety (90) days from the date of entry of this Order, then the jail sentence shall be imposed as ordered in this Order. In addition, Respondent shall be required to pay damages incurred by the Petitioner for liability for the underlying debt

owing to America First Credit Union and the fees incurred by her in defending that action. Once the damages ripen to a known amount, Petitioner shall be awarded judgment against the Respondent in the known amounts.

3. Petitioner is awarded and Respondent is ordered to pay Petitioner's attorney's fees and costs incurred bringing the issue of Respondent's contempt before the Court, from the date Petitioner's motion was initially filed through the date of trial. Petitioner's counsel shall submit an Affidavit of all fees specific in nature and incurred with respect to the issue of Respondent's contempt for his failure to refinance the first and second mortgages.

Petitioner's Contempt

4. The Court, having found the Petitioner in contempt for having demeaned the Respondent in front of the minor children, orders her to serve ten (10) days in the Salt Lake County Jail, which sentence shall be suspended for a period of three (3) years provided the Petitioner:

- a. engages in no further conduct of a similar nature; and
- b. completes a class or counseling course regarding the harmful effects of negative and disparaging remarks on children. Petitioner's counsel shall provide the Court with the names of three providers of such a course or class.

5. Respondent is awarded and Petitioner is ordered to pay Respondent's attorney's fees and costs incurred related to the narrow issue of Petitioner's contempt for having demeaned the Respondent. Respondent's counsel shall submit a detailed Affidavit as to the fees incurred by Respondent related to this one issue. Petitioner's obligation to pay Respondent's fees as required by this Paragraph shall be an offset for the attorney's fees Respondent is ordered to pay to Petitioner as provided above in Paragraph 3 of this Order.

DATED this ____ day of October, 2004.

BY THE COURT:

TYRONE E. MEDLEY
District Court Judge

APPROVED:

KATHLEEN McCONKIE Dated
Attorney for Respondent

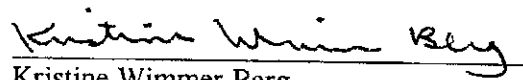
NOTICE TO COUNSEL

Pursuant to Rule 7 the UTAH RULES OF CIVIL PROCEDURE, you are hereby notified that Petitioner's counsel has forwarded the original hereof to the Court for signature, and you have five (5) days from the date this notice is served upon you to file any written objections to the form of the foregoing order with the Court and mail a copy to Petitioner's counsel. If no objections are filed within that time, the original hereof will be signed and filed.

CERTIFICATE OF SERVICE

I hereby certify that I caused to be mailed, postage prepaid, a true and correct
copy of the foregoing ORDER, on this 15 day of September, 2004, addressed to:

Kathleen McConkie
LAW OFFICES OF KATHLEEN McCONKIE
150 North Main Street, Suite 202
Bountiful, UT 84010



Kristine Wimmer Berg